THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1981 – 86

HOUSE OF ASSEMBLY

Tuesday, July 19, 1983

Pursuant to the adjournment, the House of Assembly met at 12.20 p.m. o'clock.

PRESENT

His Honour C. L. Bolden, LL.B., (Deputy Speaker).

Hon. L. S. Craig, (Minister of Parliamentary Affairs and Leader of the House).

Hon. H. B. St. John, Q.C., LL.B., (Deputy Prime Minister and Minister of Trade, Tourism and Industry).

Hon. Miss B. A. Miller, (Minister of Education).

Hon. L. B. Brathwaite, (Minister of Housing and Lands).

Mr. J. G. Odle, B.Sc., (Chairman of Committees).

Mr. B. M. Taitt, B.A. (Hons.), M.A., LL.B., (Hons.).

Hon. L. R. Tull, Q.C., M.A., (Attorney General and Minister of Legal Affairs and Minister of Foreign Affairs)

Hon. DeL. O. Bradshaw, (Minister of Labour, Social Security and Sport).

Mr. L. L. Sisnett.

Hon. Dr. R. L. Cheltenham, M.A., M.Sc., (Econ.), (Minister of Agriculture, Food & Consumer Affairs).

Mr. P. M. Greaves.

Mr. R. E. Brathwaite.

Hon. Dr. D. G. Blackman, B.A., M.A., PhD., (Minister of Health and Community Services).

Mr. L. A. Weekes.

Mr. W. O. Franklin, A.I.A.S., J.P.

Mr. A. Truss.

Prayers were read by Archdeacon F. A. Cayless.

Mr. H. A. BLACKMAN, Mr. M. A. KING and Hon. H. deB. FORDE entered the Chamber and took their seats.

MINUTES

Mr. DEPUTY SPEAKER: The Minutes of the meeting of Tuesday, July 12, 1983.

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to move that the Minutes of Tuesday, 12th July, 1983, be taken as read.

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, I am very sorry I did not draw this to the attention of the Clerk before the Minutes were moved, but on the first page, under those present, I think there is an error. The right honourable Member for St. John (Rt. Hon. E. W. Barrow) is listed as having been present. He was not here on that occasion. That is the only correction. I would normally have brought it to the attention of the Clerk before we started, but I think the Minutes could be confirmed subject to that error.

Mr. DEPUTY SPEAKER: If there are no other observations or objections, let the Minutes stand confirmed subject to the correction of those Members present. It means the deletion of the name of the right honourable Member for St. John.

PAPERS LAID

Hon. L. S. CRAIG: Mr. Deputy Speaker, I am commanded to lay the following on behalf of the Minister of Finance and Planning:

The Duties, Taxes and Other Payments (Exemption) (No. 2) Order, 1983.

The Duties, Taxes and Other Payments (Exemption) (No. 3) Order, 1983.

The Duties, Taxes and Other Payments (Exemption) (No. 4) Order, 1983.

GOVERNMENT NOTICES

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to give notice of the following:

Resolution to approve of the compulsory acquisition of a parcel of land at Bridge Gap and Highway 1, St. Michael.

Resolution to approve the vesting in Grafton Headley of a parcel of land at Bagatelle, St. Thomas.

A Bill to amend the Dogs (Licensing and Control) Act, 1981.

A Bill to repatriate to Barbados the administration and control of the Codrington Estate Trust and to provide for related matters.

QUESTIONS

Mr. M. A. KING (Christ Church West Central): Mr. Deputy Speaker, I beg to give notice of the following Questions: –

To ask the Hon. Attorney General (Hon. L. R. Tull:)

1. Is the Minister aware that the delay in proclaiming the Maintenance Act 1981–28 is causing extreme hardship to many unmarried mothers who are unable to get maintenance awards from the court in excess of $10.00 weekly?

2. Will the Minister (1) state the reason for the delay in its proclamation and (2) indicate when the Act will be proclaimed?

Also,

To ask the Honourable the Attorney General (Hon. L. R. Tull):

1. Is the Minister aware that there are serious deficiencies in the existing law regulating the use and control of the drug Cocaine?

2. Is the Minister aware that the use of cocaine is proliferating in Barbados?

3. Is the Minister aware that the proliferation of cocaine constitutes a grave danger to and has an unwholesome effect on the Barbados Community?

4. Will the Minister take urgent steps to introduce the appropriate amendments to the Narcotic Drugs Act so as to address the deficiencies in the existing law?

FIRST READINGS OF BILLS

On separate motions of Hon. L. S. CRAIG, seconded by Hon. H. B. St. JOHN, the following Bills were read a first time.

A Bill to amend the Dogs (Licensing and Control) Act, 1981, was read a first time.

A Bill to repatriate to Barbados the administration and control of the Codrington Estate Trust and to provide for related matters, was read a first time.

OBITUARY SPEECHES

RESOLUTION RE THE LATE GEORGE GRANVILLE FERGUSSON

Hon. L. S. CRAIG (St. James North): Mr. Deputy Speaker, I rise to give the honourable Member for St. Michael West (Mr. B. M. Taitt) the opportunity to address this Chamber and to move an appropriate Resolution on learning, with deep regret and sadness, of the death of a former Member of this august Assembly, the late Captain George Granville Fergusson. Obviously the Government will second the Resolution, but since the honourable Member for St. Michael West is the successor of the late George Fergusson, I think it is very appropriate that I should give way on this occasion.
12.30 p.m.

Mr. B. M. TAITT: (St. Michael West): Mr. Deputy Speaker, it is with a sense of deep regret and sincere sadness that I rise as a matter of duty, formally to bring to the notice of Your Honour and this Honourable House the passing of a great Barbadian, Captain George Granville Fergusson, my predecessor in this Honourable Chamber, representative for the then constituency of St. Michael South West.

The late Captain Fergusson died on Sunday last at 12.30 in the afternoon.

Mr. Deputy Speaker, on occasions such as this, it is customary for all those who would utter words to speak kindly and effusively about the good deeds of the departed one. Fortunately, Mr. Deputy Speaker, on this occasion it is not difficult to be able to speak kindly and with great feeling about the late Captain George Fergusson.

It may truly be said of him that he was a gentleman, and that he was a gentleman in the context of the old-time meaning of that word.

Sir, he served faithfully in this Honourable Chamber from 1961 until 1976 when, his health failing him somewhat, he decided that he would in the interest of his constituents not seek re-election in that particular year. I well recall, having myself served with him from the Other Place as a member of the Cabinet in which he served, with such distinction, the day when he indicated to me that he considered it desirable, in the interest of the country, that – in his words – "a younger man" ought to attempt to continue the work which he had tried to carry on in the particular constituency.

I, necessarily therefore, will be forever grateful to him, not only because of the opportunity which he provided me to attempt to render service at this very high level, but more because of the counsel and the example which he was able to set not only to me, but for a number of other honourable Members, who can look with satisfaction and pride at having served alongside the late Captain George Fergusson.

Mr. Deputy Speaker, those who had the honour and privilege to serve with him can attest to the indefatigable commitment which the honourable Member, as he then was addressed, had to the sense of fair play and the sense of dignity so far as this Honourable Chamber was concerned.

It is my understanding, after consultations with Members past and present from both sides of this Honourable House, that if there was a single Member of the Chamber of whom it could be said that he had earned the approbation of both sides, the late honourable gentleman was that man.

To say that he was a legend in his own time might be to make a statement of the obvious. His exploits, before becoming a Member of this Honourable House, are so well known to the adult and some of the young population in Barbados that it would not, perhaps, be worthwhile to recount them in any detail at a moment like this. I would merely say, Sir, that his contribution to the life and well being of Barbados began a long time before he sought office in this Honourable Chamber.

At the early age of 18 he went out to sea, in spite of the attempts by his late father to prevent his entering so lowly a field. After all, Sir, it was unheard of in his day for the son of a schoolmaster to wish to become a mere seaman – nay, a fisherman. Yet George, in his determination, went out to sea at the age of 18, and he worked his way right through the ranks of seamanship until he become a master mariner.

But more than that, he committed and devoted his entire time at sea to training and teaching young people to supply this country with its dire needs. And especially during the time of war, when it was hazardous to be on the seas at all, the exploits of George Fergusson have gone down in the annals of sea-faring history as one of the – in his own words – "dare devils" in the eastern Caribbean.

Captain George Fergusson was also the head of a household in which he brought up, with his loving wife, three children, two of whom followed in his footsteps as seafarers, and one of whom is a master mariner himself.

As Your Honour will appreciate and know, it is not for me at this time to engage in what Captain George Fergusson himself always deplored, long and tortuous speeches. He was a man of few words, but when he spoke, he spoke with conviction, he spoke with clarity, and the essence of the pristine honesty of his character was always revealed in the words which came forth from his lips.

Long will he be remembered not only as a good representative of the people of what is now the constituency of St. Michael West, but he will be remembered as a friend and a man of the people who put himself always at the disposal of the people.

His life was not without its adversities, and when they occurred that honourable gentleman faced them fully and dealt with them as he would have all men deal with their problems – fully, truthfully and as men and women.

Mr. Deputy Speaker, his remains will be borne out to sea on Friday morning at 10.00, and I believe it would not be correct of me to speak at this time without putting on record the thanks of the Fergusson family to the Government of Barbados – and in particular the Minister responsible for Defence and Security (Rt. Hon. J. M. G. M. Adams) – which has graciously placed at the disposal of the family the vessel of the Coast Guard which bears his name, the *George Fergusson,* for the last trip out to sea of the remains of this late honourable Member of this House.

With those few words Sir, it is my duty, albeit unpleasant, to move the following Resolution:

> "WHEREAS this House has learnt with the deepest regret of the passing of the late Captain George Granville Fergusson, for 15 years a Member of this House and a Minister of Government;
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> BE IT RESOLVED that this House place on record its profound sympathy with his widow, their children and friends;
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> AND BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to his relatives."

I beg to move that this Resolution do now pass.

Hon. H. B. St. JOHN (Christ Church East Central): Mr. Deputy Speaker, I rise to second the Resolution moved by the honourable Member, and I would like to associate the Government with the remarks of the honourable Member.

When I joined this House in 1966, I met the late George Fergusson in the political arena. I had known him before, in fishing in particular. As a politician, George Fergusson was a very outspoken person. He always had what he regarded as the interest of Barbados foremost in his mind, irrespective of whether his own views coincided with those of his family or not.
12.40 p.m.

Secondly, Sir, he was profoundly interested in maritime matters, and as a legal practitioner, on more than one occasion I met Capt. Fergusson in that capacity. He was one of the few Barbadians who recognized that, as an island territory, Barbados should pay special regard to maritime matters.

His contribution to experimentation in the fishing industry is also worthy of note. I believe that when the mechanization of the fishing industry first occurred, after Hurricane Janet in 1955, he was one of the pioneers, in being willing to design boats which were unconventional at that time.

He was a fan of the "double-end hull", and many people wondered whether he was sane or crazy in advocating such a design. I believe that his theories in relation to the drafting of fishing boats, particularly on designs for the north of Barbados, were well respected. Subsequent technology, of course, may have outdated his designs, but George Fergusson was such a progressive person that he himself acknowledged that his theories had to be modified in the light of subsequent developments.

Only last year at Christmas time I had the pleasure of seeing him on one of the festive nights in good form, especially having regard to his age. He remained at that time as pleasant and as willing to share his thoughts on matters in which he had special interest as he was in 1966.

He made a great contribution, particularly in maritime matters, to Barbados, and I am sure that many young people would be inspired by the fact that he regarded an occupation of whatever kind in the sea as being an occupation second to none on the land.

I join with the honourable Member in seconding the Resolution of condolence to his wife and to his family.

Mr. P. M. GREAVES (St. Michael North): Mr. Deputy Speaker, the passing of the late Capt. George Fergusson is for me a matter of deep regret. When I joined the Government in 1965, the late Capt. George Fergusson was then already a member of Government, and he continued to serve his colleagues, the Cabinet, until 1976, when he retired from active politics.

Of course, it was then, Mr. Deputy Speaker, that there was a change of Government. At that time Capt. Fergusson had already retired. So we worked together for 11 years, and during that time of working together, I can say that there was not a more selfless person.

I have no doubt that when he tore himself away from the seas, it was merely to serve the right honourable Member for St. John (Rt. Hon. E. W. Barrow), then Premier, whom he was convinced was the most fitting person to be at the head of the ship of state. It was also his desire to serve the people of Barbados, and his own position and his own requirements were not of consideration to him.

Sir, he had a strong sense of what is right, and he held to that condition. He was a proud servant of the people, and I think if there is anything that we can learn from the late Capt. Fergusson, it was his loyalty and certainly his ideals. It was for him, Sir, a matter of commitment.

He was fond of quoting from Hamlet and one could hear him often using these words: "To thine own self be true and it must follow as the night the day, thou canst not then be false to any man." Those are the principles Capt. Fergusson lived.

He was a mariner. The sea, Sir, was his great love. He knew it and he understood it. Well do I remember a debate in this Honourable Chamber about 10 years ago, when Capt. Fergusson gave us an exposition of his expert knowledge of matters pertaining to the sea. It was an instruction. It was an education for those of us who were fortunate enough at that time to hear it.

Many a man has passed his lifetime at work without finding his true vocation. Not so, Sir, with Capt. Fergusson. For him it was the sea, and I do not believe that there was ever a man more in harmony with the sea, and his chosen field, than Capt. Fergusson.

I do not think the stories of Capt. Fergusson on the high seas bear telling at this time – how he jumped overboard and helped another boat when it rammed his; how he sailed out from Brazil in his boat, which was under arrest, thus creating an international incident that threatened the comity of the respective nations. I believe that the files in the Attorney General's Office still have those details. But I understand from those who have sailed with Capt. Fergusson that when he was on

the high seas at the command of the boat, he was a completely different personality from Capt. Fergusson on land – he was in complete control and in command.

Many people have said that the sea was his greatest love, but from my own association with Capt. Fergusson, I can say that I believe he had a love as great as, if not greater than, the sea. It was his love for people.

He would not willingly hurt anyone. He was a most generous person, especially those whom he served, even to the point of sacrifice. And when he was leaving politics, he did not just cut himself loose from his constituents and those he served. He sought out and obtained the services of a replacement before he would go, and I believe that he is quite satisfied, now that he has gone, with his successor, the honourable Member for St. Michael West (Mr. B. M. Taitt).
12.50 p.m.

I too, Sir, say again that I regret his passing, and I join with other honourable Members in saluting a man of great loyalty, a man of great conviction.

Hon. H. deB. FORDE (Christ Church West): Mr. Deputy Speaker, I too would wish to join with honourable Members who have spoken in paying tribute to a great Barbadian. I think one has to recognise that the Fergusson family have contributed in a great measure to the upliftment of the people of Barbados in several spheres, and I speak both of the male and the female side of that family.

George Fergusson was in many respects a very rare person, a legend in his own time, particularly in relation to his exploits as a master mariner and an expert on maritime matters. But I most remember him, Mr. Deputy Speaker, from when I came into this House, as a neophyte. He would sit very silently on the Government benches, three down, next to the then Leader of the House, the honourable Sir Cuthbert Edwy Talma, and he listened very carefully to the debate. It was not often that he intervened, but whenever he did, he had something to say – and he said it with firmness, bluntness, authority and honesty. He was never the sort of person who boasted about himself. He was always very humble.

I think, however, Mr. Deputy Speaker, that this opportunity of his passing provides an occasion for us to reflect on the selfless manner in which many of our citizens dedicate their lives to serving their country. George Fergusson was not heavily rewarded for his political life. He gave his money freely to people who were in need, not only his constituents but other people outside of his constituency. I doubt whether he has died a man with any wealth at all of any significance. Indeed, despite his long years of service, the pension which he drew on his retirement was hardly sufficient to keep him in his old age, in the age in which he was.

It is fashionable to run down politicians and talk about how much money they are making at the public expense. People very seldom advert to the fact that there are several retired politicians who, obviously, are not well off, and who have given away sometimes more than their own salaries in the interest of their several constituents. George Fergusson, if he was alive, would probably not wish me to even advert to that.

I met and saw him quite frequently, usually at Mr. Bryan Cheeseman's restaurant in my own constituency, and he remained, despite all of the problems, and illnesses sometimes, ever cheerful, ever willing to give advice, ever humble, ever knowledgeable – in fact, ever young at heart. He remarked to me that his years in the House would probably always be remembered and cherished by him, and indeed when I thanked him for the assistance which he gave me as a young Member, he brushed that aside as easily as though it was something saying, "Well, we all must help one another."

Such was the man George Fergusson was, and I think that his passing is a great loss to this country. I hope there are many who will come after him, who will see in fishing, as in so many other professions of that nature, that it is as noble as the medical profession, as business management, as the legal profession, or any of the other professions that people tend to look up to. I think George Fergusson did a lot to elevate the profession of fishing to the status which it rightly deserves.

I wish particularly to remember his humility, his friendliness, his warmth and his sincerity. As the honourable Deputy Prime Minister (Hon. H. B. St. John) has said, I have heard him on the floor of the House disagree with the points of view of his particular political party, and I do not think that anyone of his colleagues would ever have doubted the sincerity with which he spoke, and yet the loyalty which he held to the Democratic Labour Party, of which he was a well-known member. He was that sort of person, and I can say he was one of the members of the then Government who I am sure the right honourable Member for St. John (Rt. Hon. E. W. Barrow) respected for his views, even if they did not always coincide, and it was a refreshing thing for me to see that sort of approach in the House. I learnt a lot from him, and I will always cherish the memory of George Fergusson, and the manner in which he contributed to my own learning process and spiritual upliftment.

Mr. DEPUTY SPEAKER: I too, would like to be associated with the Resolution now before the Chamber. I met the late George Fergusson in 1949 when my family took up residence in Lands End, the area which has now given way to the Spring Garden Highway. After living

there with the people who occupied that area, I went to England and on my return in 1964, I well remember that Good Friday, the first person to greet me was the late George Fergusson. After those years we had many discussions about the Government, what was needed for the people of Barbados and his views on how Barbados should be developed.

It is indeed strange that at that time I had no wish to become a politician, but I followed him in the Ministry of Agriculture, which he once held, and I followed him as Minister of Transport and Works.

His record indicates that he was a Member of this Assembly, the Junior Member for St. Michael in 1961. He was Minister of Communications and Works and Housing from 1961–1964, Minister of Agriculture and Fisheries from 1964–1966, Minister of Trade 1966–1969, Minister of Trade and Tourism in 1969 – 1970, Minister of Health and Welfare, 1971–1972; Minister of Home Affairs, 1972–1974; and Minister without Portfolio, with special responsibility for the Port, 1974–1976.

His passing will leave a sad vacancy in the lives of those persons who have served the community with dignity, and I want to join with his sorrowing relatives in recognising that this man George Fergusson was indeed a man of all times.

With those remarks, as a token of the passage of this Resolution, I ask that you do now rise and observe one minute's silence on the passing of the late George Fergusson, a former Member of this Chamber.

Honourable Members stood in their places in silence for one minute.

1.00 p.m.

GOVERNMENT BUSINESS

Hon. L. S. CRAIG: I beg to move that Government Business be the instant Order of the day.

Mr. DEPUTY SPEAKER: Government Business is now the instant Order of the day.

Hon. L. S. CRAIG: I beg to move that Order No. 1 be the instant order of the day.

Mr. DEPUTY SPEAKER: Order No. 1.

THE REVENUE (MISCELLANEOUS AMENDMENTS) ACT, 1983

Order No. 1 was called – To move the Second Reading of a Bill to amend certain enactments relating to revenue.

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): Mr. Deputy Speaker, the Government has found that there are many difficulties in the way of collecting debts due to the Crown in these very important areas covered by the Bill now before the House – Hotels and Restaurants (Sales Tax), Income Tax and National Insurance and Social Security.

There are those who say that our problems are partly of our own making, in that it is extremely difficult to get the Attorney General's Office to bring law suits in which technical problems, such as receiverships or bankruptcies, have intervened. Indeed, I recall seeing on file a minute indicating that a study of the relevant files would reveal that, invariably, advice is given by the Crown Law Officers in the direction that will save them having to go to court.

I think this may be too unkind to them, but the fact is that in a number of very flagrant matters, periods of up to two years have gone by when the Crown's lawyers have found it impossible to lodge cases and to proceed to executions. Even in ordinary matters of Income Tax, the Crown has only just completed a matter, in which the relevant tax year, was I believe, 1972, relating to divisions of land at the time estates were being cut up under the previous bad policy of the then Administration.

Our most recent problems have mainly related to hotels, and I will not go over the matter which I touched on when introducing another Bill last week.

The sum of it is that the department responsible for collecting the Hotel and Restaurant Sales Tax and Income Tax, which is the Inland Revenue, finds it almost impossible to collect the very large arrears due to it without the assistance of some measures such as this. It seems that the legal doubts as to what happens when a company that is in arrears, that is in the hands of its creditors, seeks liquidation, are such as to prevent the efficient access to the courts by the Government as a creditor.

The same hotel on the west coast, which was mentioned by name on a previous occasion, is the hotel perhaps principally giving the difficulty at the present time, but there are many others.

The question of National Insurance also arises, and this is being provided for in the Bill as well.

It will be noted, Mr. Deputy Speaker, that the companies concerned have the protection under the Bill that it is only judgments of the court, or acts which are deemed to be judgments of the court, which can be executed under this present Bill. This will cut through the red tape, cut through the doubts, and make it possible

that when the Government and people of Barbados have a judgment against an individual or a company, the judgment is a priority judgment.

I believe it will yield precedence only to wages due to employees, and perhaps in one or two limited cases to a repairer's lien, and it will allow the Government and people of Barbados to collect their money as far as it is possible so to do out of the assets of the defaulters.

I beg to move that this Bill be now read a second time.

Hon. L. S. CRAIG: I beg to second that.

Hon. H. deB. FORDE (Christ Church West): Sir, I am a little bit concerned about one or two remarks made by the right honourable Prime Minister (Rt. Hon. J. M. G. M. Adams) on this Bill.

I am indeed concerned about the feeling that the existing law of execution does not permit the execution of judgment obtained in a court of law. The area of execution is a very difficult area sometimes to understand, but the new Rules of the Supreme Court have, to a large extent simplified the area of execution.

It is not only possible to execute by way of *fieri facias*, which is well known as a levy, or the writ of *fi fa*, but there are also other remedies. There is a remedy of equitable execution, there are the remedies that are available by way of stop orders, and there are various other remedies available to the Crown.

I am not certain whether the particular cases to which the Prime Minister referred do not in themselves have other difficulties. Certainly in the case of the hotel to which he refers, there are several disputes, now before the court, involving legal problems. And I would anticipate that even with this amendment, if there are before the court, there are certain proceedings in which the priority of the Crown itself may be challenged. So despite this provision, the Commissioner of Inland Revenue will have to wait until the determination of that, because I am not sure, having regard to the constitutional provisions, that merely passing that section in this way will bypass the declaratory orders of the court.

I am aware that amendments have been made to the Companies Act and the Bankruptcy Act, I believe piloted by my learned friend, the honourable Attorney General (Hon. L. R. Tull), since he became Attorney General, giving the Crown greater priority particularly in a winding up, or where a company is insolvent, or a person happens to be in bankruptcy.

It is always a difficult thing to know what is the fine balance which one must hold between the interest of the Crown, which is in many respects the priority debtor, and the interest of other creditors, who may have lent on the strength of a certain security at a particular time. That is why I think that most laws in other jurisdictions do provide priority to a large extent for Crown debts.

Now, Sir, the changes that are necessary to the Income Tax Act are probably changes dealing with those persons who use National Insurance funds and Income Tax deducted by way of PAYE from their employees, which are under the existing Act treated as a trust, and normally in a winding up, one has departed considerably from the English position under the English Income Tax Act. Under our Act I rather believe that those will be kept separate and apart.

I am aware that there are some Canadian cases in which this problem has led to a lot of difficulty, and indeed there is current before the court a particular case involving this exact point, a case about which I therefore cannot speak in any detail. But to put the matter beyond doubt, the Canadian law at the time, the Income Tax Act, on which ours is to some extent modelled, was amended in a different way.

1.10 p.m.

I, myself, really am not aware that the Crown Law Officers are afraid to execute any judgement, or indeed to defend the Crown's position. It may be that some cases drag on.

I have just come back to the Bar to find a case that I started in 1973 and obtained a *decree nisi* in 1974. At that time there were barristers and solicitors. I was instructed by a firm of solicitors, and I was told only a few day ago that the absolute had not yet been obtained.

Now, that is 10 years, but the answer to that would not be to change the Family Law Act in that way. The answer to that is that the lawyers have not just got on with the matter before the court. And I am not sure, in listening to the arguments, that these amendments will achieve what the Prime Minister hopes to achieve, in the manner in which he sets about to achieve it.

I would wish to understand how the Commissioner can proceed to levy execution, notwithstanding the powers of the receiver, or a winding up order, or the effects of a bankruptcy order, particularly if the matter is being dealt with through the High Court. I do not know what more he can do than to await the outcome of the proceedings. Nor am I sure how, under the Hotel and Sales Act or the National Insurance Act, one can proceed to levy execution, despite these Acts.

We do have a Court Process Act. There is no necessity that all officers of Government should become their own bailiffs and be levying and so on over and above the court process procedure that at present exist.

I am willing to hear the explanation, Sir. I have read it with great care to find out exactly what is the object behind the legislation. If it is for priority, I thought we had dealt with that matter before. If it is because the court procedure is a bit slow, then there are probably other means of dealing with getting the court procedure moving quickly.

Let me say that, generally speaking, Barbados has a very good record in the whole of the Commonwealth for civil litigation in its High Court. I do not do very much criminal practice, so I cannot speak on the criminal side, but certainly we are swifter than even the United Kingdom in getting matters adjudicated through the courts and dealt with.

Now the question of execution depends largely on the judgement creditor, whether he was the plaintiff or the defendant in the case, and he must be able to push and take steps to ensure that he gets the fruits of his victory, provided he does so within the existing limitations of the law. And to that extent, the Crown itself obviously will have to increase its staff.

When I was in the department, and I am sure that my successor must have inherited the same thing, it was always felt that there were a lot of lawyers, but we needed a proper litigation section in the Ministry of the Attorney General. The Crown has now got involved in many aspects of commercial affairs, and sometimes even the statutory boards, and even the Central Bank, although it has its own lawyer, come to the Attorney General's Chambers. So obviously what we need is more staff to strengthen this department.

I wish to make another point here, and I am sure my successor will probably agree with me on this, because I certainly have raised the matter before. We also need legal staff within Government departments themselves, even although they are all responsible to the Attorney General.

The problem there is that we have found it difficult to recruit a legal officer for even the Income Tax Department. I have always contended that it would pay the Government to pay a legal officer in the Income Tax Department a higher fee, because he can probably collect for the Government $10 million more in Income Tax which is rightly due to the Government, and which is escaping Government from time to time.

But the Ministry of the Attorney General had, and I am sure continues to have, the problem of staff who have to be negotiating, going to Washington and all over the place, from time to time attending conferences, so that in my experience, sometimes the very Attorney General has to become a technician because of the lack of staff. He is sometimes there drafting the documents, writing the opinions himself, not only reading them. My predecessor, Mr. George Moe, I have seen his own opinion, in his handwriting, which he had written, and I am sure my successor has likewise had to pay attention to these sorts of things.

So it must be recognized that when we are in the billion dollar range in terms of the budget that we bring down here, when the Government has extended its commercial tentacles wider than before, when the plethora of problems which now come before the Government's departments are all sent to the Ministry of the Attorney General, that we do have to have people who can follow through. I am not sure that we have yet reached that stage.

The other point I wish to make is about the Inland Revenue Department. It is the Prime Minister's own department. I have had an opportunity since coming back to practice of observing one or two problems which exist there. These problems are not of the making of any particular Minister, they are inherent in the system which we have.

People have become more sophisticated in financial matters. Today we have a long list of tax planners and consultants available to the professions and the normal taxpayer. The taxpayer will seek legitimately not to evade, but to avoid taxes if he can within the law.

Now, the department is under pressure, because although it has had a training programme, it has been losing some of its most senior officers to private enterprise and to regional and international institutions. Frequently the department will find that one officer has started a matter, and by the time it has reached where the Attorney General's office is ready to go to court, or has actually filed a matter, that particular officer, who was carrying out the investigations and who is a crucial witness, is no longer there. So that obviously weakens the hands of the Government's legal officers in those circumstances.

In fact, the department itself is snowed under with objections, some of which go back several years, which the Commissioner and his staff cannot find time to carry out the first process of hearing the objection, so that the taxpayer can appeal, if he wants to, to the Tax Appeal Board and finally to the Judge in Chambers. And one of these days some taxpayer is going to pursue a remedy by way of *mandamus*.

I would like to appeal to the Minister. I know that we are still riding out of one of the worst economic recessions, and I believe that we have handled it as well as any Government could. The Minister of Finance himself has obviously had to watch every cent that he has spent and is spending, and obviously you cannot just

keep expanding staff as that cost money, but there are areas in which the Government by spending more money can save more money. And certainly an increase in the staff and expertise in the Department of Inland Revenue, certainly on the legal side, particularly to create a section that is geared to litigation, at the same type of level of expertise as we have on the criminal side, would save money.
1.20 p.m.

There are persons who merely do the work of the Director of Public Prosecutions, but within the Ministry of the Attorney General, certainly when I was there, the position was that there were times when we had to take very junior officers and send them up against skilled counsel with several years of experience, because we were short of staff or we were under tremendous pressure. These are real problems.

I know it is said that the department has 28 officers available to it, that is the whole Legal Department, but these 28 officers are handling, I think, the combined, and more than the combined, volume of business in money terms which go before the Attorneys-at-Law on the civil side. And the Ministry of the Attorney General is the biggest law firm as the Government is the biggest business in the country, and it therefore needs to be adequately staffed. If that is done, I believe that all of these sort of problems would be overcome without the necessity to resort to legislation.

I could well see, for instance, that on the para-legal side we would have people who would be able to follow through the court processing position by having adequate para-legals, and I would ask the Minister to bear that in mind. I am not sure that the legislation itself will really cure the problem of which he speaks, because I think it would still be subject to the other processes of the court.

I am sorry that I have been long in raising the matter, but I would like to see in the Companies Act, and in the amendment to the new Bankruptcy Act the provisions of priority clearly and firmly set out. So that even if Government has to wait sometimes until matters are adjudicated in the court, the Government priority will not be affected, but it will not appear as though we are sending officers outside of the court process system to levy executions. I do not think that is what the Bill says; it could possibly be saying that, and that is why I am raising it as a query to the Minister.

Hon. H. B. St. JOHN (Christ Church East Central): Mr. Deputy Speaker, I believe that I have had not an inconsiderable experience of bankruptcy, receivership and liquidation. One of the significant things about these conditions is that they only periodically occur, in economic conditions that are bad for the particular businesses which are affected by them.

I remember that in the 1950s Roebuck Street had its first wave, resulting from re-organisations in businesses there. At that period of time problems arose as to the nature of the security which was granted under the Chattel Mortgages Act. The most outstanding case of all was the attempt to finalise among the creditors the assets of James A. Tudor.

Then, the full nature of the security of the Chattel Mortgage Act was made known. I was involved in a number of the priority cases then. Receivers were not popular in those days in commercial businesses. Then in the 1970s, from the first energy crisis, we started to have receiverships.

Now this is an area of law which my Ministry has been following and paying close attention to, because I doubt whether anyone in Barbados can say with any degree of certainty where one finds all of the law relating to receivership in Barbados. There is certainly no statute that you can look at and say, "this sets out the duties of a receiver." There are a series of cases which one finds over the whole course of the legal reports dealing with receivership of companies and receivership of individuals in the various periods in the United Kingdom, which we presume we follow, but they are dependent upon the particular Companies Act which was in force in England at the corresponding time. As is well known, we have a Companies Act which, before it was amended, was based basically on the 1908 English Companies Act.

So with respect to receivership, the view has always been held, and I think the correct view, that all a receiver does is to displace the directors of the company; that whatever the situation with respect to the company vis-a-vis third parties is before the receiver is appointed, it does not change, with the possible exception of contracts of employment.

Now, Sir, that is part of the cause of the necessity for this Bill. As far as we understand it, there is absolutely nothing to prevent any debtor from executing his debt when a receivership is in operation, and having such priority as is available to the quantity of debt or the character of debt which he had assigned to it.

But notwithstanding that, there is still a reluctance to proceed to execution by the people who are responsible for execution, that is, the marshals of the court, under the Court Process Act. So we can answer the first question raised by the honourable Member for Christ Church West (Hon. H. deB. Forde) by saying the Bill does not attempt to say that another Government service must carry out the functions which are assigned under the Court Process Act to the judicial machinery there. It is really only declaratory.

The Bill does not deal with the priorities. The priorities are left to the court. All the Bill says is that the fact that you have a receiver does not prevent an execution from being carried out by a creditor, and it says that the Crown can take the steps to have the execution carried out in respect of the particular debts. When the execution is carried out, the marshals will receive and are in control of the proceeds. The question of priorities will then arise. That clears the case with the receiver.

With respect to bankruptcy and liquidation, a different situation arises. I think the law is quite clear that once a company is in liquidation, or a person is in bankruptcy, no court process can be initiated or carried into full effect without leave of the court. I think that is the law, because the reason for that is quite clear, that the liquidator has to be given some freedom to manoeuvre with respect to the best way of realising the assets. What this Act does is to amend that principle of law. This is the real gem, in my opinion, and importance of this Act; it amends that principle of law, because it says that you do not have to go to the court for permission, but you can still get the execution.
1.30 p.m.

In short, what this seeks to do is to place a Crown debt in these categories in exactly the same position that a mortgagee of a specific mortgage is placed with respect to property and liquidation. Because as I understand it, the rule of law is that if you have a mortgage on a specific property when the company is in liquidation, the fact that it is in liquidation does not mean that you cannot realise your security under the mortgage, and of course the rule of equity is very clear that you can only prove in liquidation for the balance, unless you voluntarily agree to surrender your security to the liquidator and join the pool. That is all we are saying, Sir, and it is an attempt to bring some clarity in this area.

What the Government honestly wants to get across is that people who deduct PAYE, people who deduct National Insurance, are in the position of a trustee, because really it is not their money: it is money to be paid over to Inland Revenue on account of, in the case of PAYE, a particular person's Income Tax, and in the case of National Insurance, for the particular person's social security, and we feel that there ought to be recognition in the law of this principle of trusteeship.

I would like to go further. I frankly feel we should go further and in the main Acts themselves declare the trusteeship once and for all; that if that is done what will happen will be that the general rule of law will apply; that is, that if a trustee goes bankrupt, the trust property is not subject to distribution among his creditors because he is a trustee. That is the fundamental principle that we will have to get down to.

The new Companies Act will deal with the modern method and scheme of liquidation.

Hon. H. deB. FORDE: If the honourable Member will give way, if I may clarify a point and if he could probably answer it, Sir, Section 64 subsection (3) of the Income Tax Act provides that PAYE and money collected is not attached, it is a separate trust; and a liquidation, bankruptcy and attachment are separate from the funds of the person. The point I am making is that really what the Government needs in the National Insurance Act and the Hotel Sales Act is a similar section, and to strengthen that section in the manner in which it has been done in the Canadian Act, and that would get past the problem.

Hon. H. B. St. JOHN: I agree with that. The honourable Member does take the point of principle, and I am glad that he has drawn my attention to the point about the Income Tax Act where the trusteeship is declared. I think the honourable Member may recall I said that in that respect there must be clarity. This is the position we are at. Sometimes in Government you do not have the time to carry legal disputes to conclusions. You amend the law so as to make them beyond any doubt, and that is the position.

I was at the point of the question of the new Companies Act, which the House has already passed. It has dealt with this question of a modern scheme of liquidation, the priorities and so forth, but we do have to have a modern Bankruptcy Act. Now there are various competing views on that, because there are some people who would like to introduce the American chapter or title eleven bankruptcy in Barbados, but I do not think that Barbadians are ready to see that the first $500 000 of a man's property is exempt from distribution to his creditors. I do not think so.

The other area that we have to deal with is a receivership. We must have some hold in relating to some aspects of receivership. My Ministry has been receiving a considerable amount of complaints about the charges a receiver is charging. My own view is that if anybody who appoints a receiver in Barbados is dissatisfied with the charges, he should go before the court under the Rules of the court and ask the Registrar to deal with it, but it is a very grey area.

This has arisen because receiverships are usually done by banks. Contrary to popular belief, receiverships are instituted in order to salvage businesses; they are not like liquidations. There is the belief that when a man appoints a receiver that the object is to close down the business. I suppose that receiverships should be known as creative steps to re-organise the business under the protection and control of an independent person.

That, Sir, is the object of the legislation. I am not saying that there may not be other areas in the law which

will cover it, but what I do say is that there is some uncertainty on the position, and it is certainly no intention of the Government to interfere with the normal Court Process Act and matters of that kind.

Hon. L. R. TULL (St. George South): Mr. Deputy Speaker, the Attorney General's Chambers have attracted a gratuitous side swipe on a matter that really is not its responsibility.

All the laws which this Bill is concerned about – the Hotels and Restaurants (Sales Tax) Act, the Income Tax Act, the Bankruptcy Act – this whole area of the law is in serious need of comprehensive reform. It is not enough to keep blocking little holes in the dyke until the water comes through. There is need for comprehensive reform, and we have been talking about it for a very long time.

If you look very closely at this Bill, you will see that the remedies are sought for a situation when you have reached the worst – you are moving into liquidation, you are moving into bankruptcy, you are moving into receivership. It is my submission that in each of these pieces of legislation there is a remedy, and in some cases more than one remedy, that can achieve exactly what is being sought in this particular case, and this is constantly the recommendation of the Attorney General.

We have, Mr. Deputy Speaker, cases of Income Tax, where action being taken after companies have accumulated arrears of Income Tax of hundreds of thousands of dollars. In the Income Tax Act itself there is the remedy for collecting these arrears and for levying executions at a very early stage. This Bill seeks to do nothing more and nothing less than to deal with a situation after an individual or company is bankrupt on the one hand, or in receivership on the other hand, and we recommend early action in these matters so that we will be able to get around the difficulties that are presented to us when these matters appear before the courts.

The honourable Member for Christ Church West (Hon. H. deB. Forde) has focussed very clearly on some of the difficulties that we find in the Attorney General's Chambers. For a long time we have been asking for a Treasury Counsel. A Treasury Counsel is vital to deal with specific areas of the law on a continuing basis, and we feel also that it is necessary that the Inland Revenue Department should have its own specialist lawyer to deals on a regular and continuing basis with Income Tax matters.

The Chambers of the Attorney General are overworked. There is a great deal of work to be done, and it is multiplying. The honourable Member for Christ Church West identifies, for instance, the increasing amount of commercial work that is taking up a lot of time in our Chambers, and there is an awful lot of arbitration work. I believe that at the moment we have five major arbitrations involving millions of dollars, and each one of them is taking up almost the total time of a Senior Legal Officer.

1.40 p.m.

We have Mr. Deputy Speaker, a situation where half of the staff in the Attorney General's Chambers are people with very few years of call, relatively inexperienced people, who need to be supervised even in writing straightforward and elementary opinions.

The honourable Member is right, in relation to the comments he made about the Chambers. The Attorney General of Barbados is a political Attorney General, concerned, like anybody else, with his constituency and other matters relating to his political activity, and it is a bit of a burden to expect, as is happening, that extra time is to be found to be a professional law officer in your own Chambers. That is not the system, but that is what is happening.

We heard only last week, Mr. Deputy Speaker, about the question of PAYE and National Insurance payments not being paid over. I do not see any difficulty with that. If an employer collects money from one of his employees and does not pay the money over, but spends it on some other purpose of the company, or some personal need, the Criminal Law of Fraudulent Conversion, in my view, is there, and well able and capable to take care of any such situation.

We have, Mr. Deputy Speaker, the question of the work of the marshals in carrying out executions even on minor matters. We have constant complaints, for instance, where in extremely minor matters, judgements of a few hundred dollars, even if they are affiliation proceedings, money for women for their children and so on, that a year or more passes before we have any execution by the Process Office in Bridgetown. These are all part of the total problem that work against the facilitating of what the Ministry of Finance and Planning would like to get in relation to these three particular areas of tax collection.

We have also a problem when these matters appear before the court. We hear of one in 1972, the Income Tax case. We had difficulty with it because the court was making Orders consistently on applications that frustrated what the Income Tax Department and the Attorney General's Office were trying to achieve.

Asides.

Hon. L. R. TULL: It is a statute, Sir. The law is quite clear that if a company is in receivership – to deal with the receivership first – and it goes before a court,

that the Judge alone has the authority to determine whether execution can be levied during the period that the matter is before the court. That is the Law, Sir.

Now, we know that quite often there is a conflict between the political needs of a Government, like bringing in taxation, and the strictly legal position. We in the Ministry of the Attorney General, are solely concerned with the legal position, and we cannot, in any circumstances, be railroaded into taking action that is in contradiction to the law so as to meet the convenience of other Government departments which would like to have these things answered.

We have the same situation in bankruptcy, where the hands of the Government are tied the moment a matter is pending before the Supreme Court because it remains in the discretion of a Judge whether to allow execution on the property.

I had no intention of really getting into this debate, since it deals mainly with the Ministry of Finance and Planning, but when the Attorney General's office must carry the opprobrium for significant gaps in the law, I have to rise. We all agree that there are areas in the law in relation to receivership, bankruptcy and so on that need to be looked at and plugged at a very early date.

The honourable Member for Christ Church East Central (Hon. H. B. St. John) is perfectly right when he says there is no statute in Barbados that sets out definitively the rights, powers and responsibilities of a receiver. This adds to the problems in the Law Chambers. One has to do a lot more research in bringing together these different strands in the law, and putting them into a cohesive whole so that we can approach the Law Courts with a certain measure of confidence.

It is perfectly true, Mr. Deputy Speaker, that the Attorney General's Chambers, because of the way people are recruited and the type of work they do when they go into the Chambers, do not have many experienced advocates. I believe that if you add up all the cases the total number of people in the Attorney General's Chambers have ever done before a Judge, they do not add up to the number of cases that would have been done by one single leading member of the private Bar. One has to take these things into consideration. But I do not think it is exactly fair to say that opinions are written by the lawyers in those Chambers to avoid going into the courts. I do not think that is really correct.

I believe there is far greater integrity among the lawyers in the department than that. And indeed, Sir, if I were of the view, when I read opinions written by people in the department, that the opinions were written to avoid a confrontation in the courts, I could do one of the things that I have been forced to do in recent times, and that is to engage the services of a senior lawyer in private practice who would look after these matters for the Chamber.

So, Mr. Deputy Speaker, I want to finish with these three points. One is, that the Attorney General's Chambers are, to a large extent, stymied by gaps in the law; and also the fact that when a matter reaches the stage of a law suit before the Supreme Court, it remains in the discretion of the Judge whether he is going to allow execution for judgement on behalf of the Crown.

The next point I want to make relates to the fact, and it is my opinion expressed over and over again, that there are adequate remedies in the law in relation to Income Tax, Hotels and Restaurants. There are also sufficient remedies in the law to take care of any defaults. The difficulty is that we wait until we reach the stage of bankruptcy or receivership before we take action for money that has been owing to us. If we take action in the early stages, these difficulties can be avoided.

The third point I want to make is in relation to the whole question of the conversion of funds collected by employers from employees, whether it is National Insurance funds, or Income Tax. Anyone who converts these funds collected to their own use and the use of their company, in my view, is guilty of the criminal act of fraudulent conversion, and that is covered in the laws of Barbados already.

1.50 p.m.

I want to make the further and final point that the Chambers of the Attorney General cannot unreasonably be blamed week after week for what are substantially the defaults of other departments.

We also have the difficulty of trying to impress on part-time lawyers and untrained lawyers, such as you find in the Inland Revenue Department, that we are the ones who will be giving the opinions of law and they must adhere to them. We advise the Commissioner of Inland Revenue in relation to a few tax matters, some of them before the court, and somehow he feels that he must have his own personal opinion of what it should be, and therefore he is in many cases refusing to accept the opinion of the Crown lawyers.

They say a little learning is a dangerous thing. These people who work in the National Insurance Department, and in the Inland Revenue Department, do a little part-time preliminary course in law and they feel that they know all of the law. It would be useful if Ministers of Government would bring it clearly to the minds of the people who work in their departments that there is only one Crown Law Office.

I am not going to encourage my people to waste any time with any department that refuses to accept our advice. We have some people, Mr. Deputy Speaker, in some of these Government departments who have the colossal nerve to write back and say they do not agree with a legal opinion. You hear that all the time. The Prime Minister says he does it all the time, but I made reference already to part-time lawyers.

Mr. Deputy Speaker, that, in sum, is my submission. I really want to see if I can establish once and for all that the Attorney General's Chambers should not be blamed continually for a lot of the defaults of other Government departments. We get blamed for what we do wrong, which is sometimes, but not too often, and then we get blamed for several things that we have nothing to do with.

Later in the day I intend to give notice of a Narcotics Bill. It is a pity I was not making a Second Reading speech, because all sorts of malicious and wicked statements have been put out in respect of a Narcotics Bill, including statements from people who really should know better since they have the facts. These things need to be aired, and I really am appealing for a little fairness. If honourable Members will sear the Chambers when they really are wrong, we can live with that, but we find it extremely difficult to bear being continually blamed for things for which we are not responsible.

Dr. R. C. HAYNES (St. Michael South Central): Mr. Deputy Speaker, as a non-professional and untrained lawyer, I would not wish to add to the obvious confusion that exists among the political lawyers on the other side, where each and every one appears to have a different opinion on the same matter.

Only a week ago we heard the distinguished advocate, the right honourable Prime Minister (Rt. Hon. J. M. G. M. Adams), introduce legislation in this House because he felt that in the existing situation employers who convert PAYE and National Insurance deductions to other uses could not be prosecuted for criminal conversion under the existing legislation, and hence we had to introduce new legislation to deal with that particular matter.

We, Sir, have had a situation where the laws relating to various categories of taxation have been subject to all sorts of interpretations by the political lawyers on the other side for many a year, including, the situation which I think the right honourable Prime Minister adverted to in his speech, where there could not be a single legal decision taken on whether a particular transaction constituted a capital gain or not, and hence that took some eleven years to resolve.

But, Sir, I want principally today to look at the area of receivership, which is a serious matter in Barbados, not only to the disadvantage of the owner of the business or to the disadvantage of existing creditors at the time of receivership, but also to the disadvantage of the Government itself, which might be owed debts in respect of PAYE and National Insurance at the time of receivership.

The economic climate, as adverted to by the honourable Deputy Prime Minister (Hon. H. B. St. John), is such that an increasing number of companies in Barbados are being placed in receivership. The receivers do not seem to understand that they have a duty of care in relation to those businesses and that they have an equal responsibility to the persons who own the business as to the banks or any other person who might have taken the steps to put the company in receivership.

There are many people who are walking around Barbados accepting receiverships, dislocating management, charging exorbitant fees – and they hardly ever turn up at the businesses to ensure that the businesses are properly managed. The net effect of that is that a company may go into receivership with debts to the amount, say, of $½ million, and after the receiver has been in there for a year, after he himself has extracted and presented to management exorbitant bills, then the company finds itself in a position where it has $1.5 million in debt or something of that nature, and there is hardly any legal redress in Barbados. This kind of situation has got to be stopped. It is not fair to owners of companies in Barbados.

I speak because I know of several companies that are today much worse off, since they have been put into receivership, than they were at the time when they were put in receivership.

I will go further, that I know of a situation where a receiver has been put into a particular business in Barbados which has performed well in generating exports for Barbados, and the banks in Barbados which placed the company in receivership were negotiating with another bank in Trinidad to find a buyer for the business in a situation where they could buy the business out at a considerably lower price than it would have fetched when it was a viable business. In other words, what I am saying is that having got the business in a worse position than it was when it was put in receivership, then the very bank itself was collaborating with a potential purchaser of the business in another country in order to undermine the original owner, and that owner has no redress.

Now this kind of thing is wrong. It certainly is not consistent, as I understand it, with the whole principle and purpose of a receivership, which should be to strengthen management, to redirect management and certainly to exercise a duty of care to all parties involved fairly and impartially. I believe there needs to be a law in Barbados which not only imposes a responsibility on

the receiver but also imposes certain penalties on receivers in that kind of situation.

At the moment, Sir, I believe that we have been toying with this whole question of receivership, and it is a matter that needs to be dealt with as quickly and as decisively as possible. I am very grateful for this opportunity to raise this matter on the floor of the House, because I believe there might be one or two existing situations that might be occupying the attention of another jurisdiction, which, of course, we do not deal with or refer to in this Honourable House.

Thank you very much.

The question that the Bill be now read a second time was put and resolved in the affirmative without division.

SUSPENSION OF SITTING

Mr. DEPUTY SPEAKER: The time is now 2 p.m., and this sitting stands suspended until 2.45 p.m. today.
2.00 p.m.

RESUMPTION

Mr. DEPUTY SPEAKER: This sitting is now resumed.

QUESTION TIME

Mr. DEPUTY SPEAKER: It is now Question Time. There being no Questions ready, it is now Private Members' Time. There are no members in their seats having Private Members' Business set down for today, so we now revert to Government Business.

GOVERNMENT BUSINESS

ORDER NO. 1 – CONTINUED

On the motion of Hon. L. S. CRAIG, seconded by Hon. L. R. TULL, Mr. DEPUTY SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 and 2 were called and passed.

The Schedule was called and passed.

On the motion of Hon. L. S. CRAIG, seconded by Hon. H. B. St. JOHN, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. L. S. CRAIG, seconded by Hon. H. B. St. JOHN, the Bill was read a third time and passed.

THE CIVIL AVIATION ACT, 1983

Order No. 2 was called – To move the Second Reading of a Bill to make provision respecting the regulation and control of Civil Aviation in Barbados.

Hon. H. B. St. JOHN (Christ Church East Central): Mr. Deputy Speaker, this is a Bill which would repatriate the law relating to civil aviation in Barbados.

The civil aviation law in Barbados is contained in the Colonial Air Navigation Act and an Order made under the same. That was laid in 1949 when Barbados was a colony. After independence, it was one of the laws that continued to be in force with the regulations made thereunder. Modern civil aviation laws have been passed throughout the Commonwealth to replace this, and Barbados is only falling into line.

Opportunity has been taken to enlarge some of the scope of the regulatory power, so that matters of detail relating to the aircraft, safety, training and matters of that kind will be dealt with in regulations.

This Bill has been prepared certainly for about five years and had a very large amount of consultation in the consultative process, and I commend the Bill to the House.

I beg to move that this Bill be now read a second time.

Hon. L. S. CRAIG: I beg to second that.

The question was put and resolved in the affirmative without division.

On the motion of Hon. H. B. St. JOHN, seconded by Hon. L. S. CRAIG, Mr. DEPUTY SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 – 29 inclusive were called and passed.
3.00 p.m.

The Schedule was called and passed.

On the motion of Hon. L. S. CRAIG, seconded by Hon. L. R. TULL, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. H. B. St. JOHN, seconded by Hon. L. S. CRAIG, the Bill was read a third time and passed.

VESTING IN WILLIAM A. YARDE OF A PARCEL OF LAND AT FLAGSTAFF, ST. MICHAEL

Order No. 3 was called – To move the passing of a Resolution to approve the vesting in William A. Yarde of a parcel of land at Flagstaff, St. Michael.

Hon. L. B. BRATHWAITE (St. Andrew): Mr. Deputy Speaker, this Resolution is pretty straightforward. It has come about as a result of a request for the leasing of a piece of land adjacent to the Government-owned land at Flagstaff, where the Signal Station is situated.

The owner, who has approximately 4 000 square feet of land, wanted to construct a house and sought to get an additional piece of land of about 450 square feet of land, so he approached the Government in order to tidy up his land and give him a reasonable curtilege to his home. He set about to get Town Planning permission and a loan for the erection of such a home and he sought to get a lease.

The Government in looking at the lease, was disposed to consider the sale of the land, since it was thought that it would be tidier for him to have ownership of his land. So the Government, in its effort to transfer as best as humanly possible lands which can go towards the proper housing of people came to the decision that this land could be disposed of in order to assist Mr. William A. Yarde in the construction of his house and giving him the necessary curtilage which is necessary in order to make his home more habitable.

I think this is rather straightforward. I do not think it should invoke any opposition, and I have no doubt in my mind that this is the type of Resolution which would have easy passage and acceptance in this Honourable House.

Mr. W. O. FRANKLIN (St. Philip North): Mr. Deputy Speaker, as the honourable Minister (Hon. L. B. Brathwaite) has said, this is not the type of Resolution that would pose any problem, and I heartily agree with the Ministry's decision to allow Mr. Yarde to have the parcel of land that he wishes to build on.

However, the ease with which the Ministry was able to dispose of this parcel of land brings me to this point, to enquire of the Minister whether or not he is aware of the difficulties now being faced by persons seeking to dispose of their parcels of land. This difficulty seems to relate to the provision originally required under the Tenantries Control Act, whereby if you wanted permission to subdivide a parcel of land that was regarded as a tenantry, you had to meet certain requirements as stipulated by the Ministry. But without warning, Mr. Deputy Speaker, the Ministry seems to have now applied the same stipulations to every individual parcel of land in Barbados having more than one person on it.

I think that we must strike a balance somewhere and, with your indulgence, I would like to draw to the Minister's attention some of the problems that persons are now having. Now here is a person seeking to subdivide a portion of land, well over 20 000 square feet, into two lots, and because there are two persons on this parcel of land, the Ministry of Housing is now seeking information like this:

(1) the approximate area occupied by each tenant;

(2) conditions under which it is proposed to make land available to the tenants;

(3) if tenants are to be removed from the land to be subdivided, the conditions proposed for the resiting;

(4) Statements signed by the tenants that the conditions stated at (2) and (3) above are acceptable to them.

•Please indicate the price per square foot at which you intend to sell the lot.

•Grateful if you would also indicate whether you have carried out any infrastructural developments, roads, drainage, water supply, electricity, in the area if you intend to carry out any development of the land in the future.

•If any of the tenants do not wish to purchase their lots , how much do you propose to charge for the rental of such lots.

These are the conditions now being asked to be met by any person in Barbados who have two houses or more on a parcel of land. So it is now at the point where owners of land in Barbados are at the mercies of tenants – as few as two – since you have to decide, and the tenants have to agree, what price you are going to sell them at, and they have to agree if you are moving them what type of provisions you must make.
3.10 p.m.

It is not usual in a situation with two. These are the provisions that apply to tenantries, but these provisions are now being applied to all sub-divisions in Barbados as long as there are two or more tenants. This is a situation where 20 000 square feet of land is being sought to be subdivided by the owner and there are two tenants only,

and the owner is now almost at the mercy of those two tenants as to whether or not he is in a position to subdivide each parcel of land, and he is also at their mercy as to what price he could sell these two tenants a parcel of land.

Mr. Deputy Speaker, I do agree that there has to be some protection for people, but we also must respect the rights of owners of land in Barbados and not carry it too far. I think that this is really carrying it too far, where, to me, wherever you have two tenants or more you have to subject yourself to a series of conditions to be met before you get permission from the Ministry of Lands and the Town Planning Department to subdivide this parcel of land. This, Mr. Deputy Speaker, I think, is creating unnecessary hardship on owners of land.

The provisions in the Tenantry Control Act were acceptable to all of us since we agreed that there must be some protection, but you cannot carry the protection the other way where it is now proving a burden on owners of property in Barbados. This would have the effect that nobody in Barbados with any land at all would tenant it to anybody in future, because the moment you put on more than a single house on a parcel of land, you are now almost surrendering your freedom to do as you like with that fee simple that was once yours. I think this is carrying it a bit too far, and you must redress and come back to the balance between tenants and owners of land in Barbados.

I would invite the Minister to have a look at the particular situation that is developing in the Ministry and to enquire whether or not the balance that was once held between owners and tenants has not already been lost in favour to tenants, since as few as two tenants are now dictating to owners of fee simple in Barbados what they can do with their land.

Hon. H. B. St. JOHN (Christ Church East Central): Mr. Deputy Speaker, I listened with interest to the honourable Member who has just spoken (Mr. W. O. Franklin). I know that the provisions of the Tenantry Control Bill and its companion Bill were never acceptable to the Democratic Labour Party, and that is why they voted against it, but the Government took a long, hard look at the question of the lack of security of tenure in Barbados and at the constraints which were identified about the utilisation of land for building permanent structures as opposed to temporary structures.

We came to the conclusion that one of the constraints was the lack of freehold title to the land. The fundamental objectives of the two Bills are to give all occupiers of land the right to purchase the lots that they have been occupying for five years or more. That is a fundamental principle.

So the question of the relationship between a tenant and his landlord, which tenancy falls within the definition of the Bills, is similar to the relationship between the Crown and any land owner in Barbados, that is, in so far as that particular piece of land is concerned, your rights are shifted from the rights of a freehold of a personal occupation to a right of compensation. That is the philosophy; there is no argument about it. The Democratic Labour Party had its view, we have our view.

As far as the tenants are concerned, they are in the position of the Crown. They have a right to acquire and they have to pay compensation. In respect to agricultural tenants – and I am not clear which the honourable Member is talking about, whether he is talking about an agricultural tenancy or a non-agricultural tenancy – their right is to acquire at a stipulated price. With respect to all other tenants, and I think this is where a lot of people are being misled, they have to pay the market value of the land, so there cannot be any question of the landlord being deprived of anything. A statutory right is granted to the tenant for the market value of the land. That is the position, so it is a difference in attitude and outlook.

We feel that the social objective of permitting the vast majority of people in Barbados who occupy land to acquire the land so that they can build a permanent structure, to the lasting benefit of Barbados, is more important than the one or two hard cases that the honourable Member would be able to draw attention to. And there will only be one or two in relation to the magnitude of tenants they are. There must be well over 10 000 tenants in Barbados, and the honourable Member cannot put his hand on 100 situations – less than 0.001 per cent.

So, therefore, what we are trying to do here is to achieve the greatest satisfaction for the greatest number, a very laudable objective. But I think that we must get clear in our minds that in respect of non-agricultural tenancy – and the situation the honourable Member talked about is not an agricultural tenancy, because an agricultural tenancy has to be scheduled and it must relate to a plantation – the right to compensation that the honourable Member talks about is market value and that market value is set out in the Act. Of course, the honourable Member may say that the Crown is not entitled to discount the market value because of the roads, water and lights that are put in by the Crown, but I disagree with that.

So the tenant does not have any pistol at the head of the landlord. There is no question of the tenant having a pistol at the head of the landlord. It is a question of whether you believe, in the context of Barbados, that you should give the tenants the right to acquire the piece of land that they have been occupying.

I may say this: it is not a question of occupancy for any small period of time. There must be a minimum period of time that you had to have occupied it – five years I believe it is.

Mr. W. O. FRANKLIN: On a point of order, Mr. Deputy Speaker: I think the honourable Minister (Hon. H. B. St. John) is not seizing the point. I am not referring to tenantries. This is a situation where there are only two tenants, therefore it is not a tenantry.

Mr. DEPUTY SPEAKER: That is a point of explanation.

Hon. H. B. St. JOHN: Just as the Democratic Labour Party defined a tenancy as five tenants or more, the Barbados Labour Party can say, for the purpose of this Bill, that two constitute a tenancy. That is all. What the honourable Member's quarrel is is that we have changed their definition of tenantry.

We changed it. The Bill came to the House and we said we were changing it, but, and this is the point of principle, the number of cases that the honourable Member can bring to show a hardship is very very small in relation to the greater good. There are thousands of people out there who went to sleep overnight knowing that at some period of time they could be thrown off by their landlords although they had been there five years. So with 20 000 square feet of land, in those cases I am positive that the Housing Authority would be able to make alternative arrangements for the landlord in respect of those two pieces of land. I do not see any great difficulty with that.
3.20 p.m.

Hon. L. B. BRATHWAITE: Mr. Deputy Speaker, the honourable Deputy Prime Minister has adequately replied, in my view, to the points raised by the honourable Member for St. Philip North (Mr. W. O. Franklin). I would just like to add to what the honourable Member for Christ Church East Central (Hon. H. B. St. John) has said.

You only have to be a tenant of the Ministry of Housing and Lands for one week to realise the great problems that are in that Ministry in terms of finding spots for people and housing people in the country.

Barbados has a relatively good position in terms of the housing ratio per occupant compared with other people in the Caribbean and in the world, but I believe that if you had a better land title position in Barbados, instead of your ratio being something like 3.6:1, it would be 3 or less. Therefore, it is important that you give greater tenure of security to tenants.

Barbadians are people who are property conscious, and they are very conscious of the fact that when they become owners, they are able to take the liberty with lands which they occupy in order to do things by way of improvement to their homes.

The reason why this decision was taken to create two tenants as a tenantry and to give security to those people is because a number of landlords have been, by a number of devious means, when the original number of five was regarded as the stipulated number for which you would not be able to turn tenants off, were using the lever of trying to drive off a tenant, until they were able to reduce it from five to four, thereby giving them the opportunity to get rid of the tenantry as such; because as soon as you got below five, you were no longer a tenantry. A number of people in this country were very much disadvantaged because of the policies of very hard and outrageous landlords.

I am not suggesting by that that tenants cannot be difficult too, because I had a very bad experience, as the person responsible for Government properties in National Housing, with respect to the rents which are to be collected. In some of the newer estates that we have recently built up, Mr. Deputy Speaker, like the Ivy, Fernihurst and Bonnetts, you would be surprised to know that there are rents being built up, contrary to what people might think, huge sums in a very short period of time. Only from late September last year when those houses started to be occupied there was a big building up of rents.

So I am not only making out a case for the tenants, but I am also making out a case for the landlords, who must have the right to ownership and the ability to negotiate in these circumstances.

The Deputy Prime Minister was clear in enunciating the policy of the Government in respect of the Tenantry Freehold Purchase Act. The law has stipulated what the price must be, but with respect to these other tenants, there is the question of the negotiation between the parties concerned.

I give the assurance to the two tenants out there that so long as they have been on the lots for five years, they have rights as well. They are not to go to sleep tonight feeling that tomorrow because the landlord does not like their faces, or their heads, or their clothes, or that they started to improve their houses and the landlord was not satisfied, that they will be dismissed the following day by the landlord.

If Government could open all the lands in Barbados for people to be resited on, there would be large numbers to be resited. Indeed, this is a situation with which the Ministry of Housing and Lands is confronted, and we know the problems. We know that people prefer to remain where they have been accustomed to over the

years, and we do not want to uproot people unnecessarily. Therefore, the Act, as it now is, is designed to assist those tenants who have lived in perpetual fear, with greedy landlords breathing down their necks.

The question that this Resolution do now pass was put and resolved in the affirmative without division.

Order No. 7 was called – To move the House into Committee of Supply for the granting of sums of money for the service of the island.

COMMITTEE OF SUPPLY

On the motion of Hon. L. S. CRAIG, seconded by Mr. J. G. ODLE, Mr. DEPUTY SPEAKER left the Chair and the House went into Committee of Supply, Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee of Supply.

SUPPLEMENTARY ESTIMATES 1983–84,
No. 5 – $9,556

Head 16 – Prime Minister's Office – was called.

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): The Prime Minister's Office, in bringing itself up to date, is providing word processing facilities to allow its secretarial work to be done adequately.

I would like to pay a tribute to the adaptability of the secretarial staff of my personal office, who, in a very short period of time, have mastered the word processing equipment, including the use of floppy discs and computerised retrieval systems. Unfortunately we do not have an adequate printer for the word processor, and the work which we can do not only for our own office but for other offices, especially the Government Information Service, is compromised by the lack of an adequate printer. We therefore need to buy this particular item.

I cannot remember what the item relating to maintenance of property is, Sir, but it has to do with, I think, maintaining a copying machine. There has probably been an increase in the cost of the maintenance contract.

The amount of money is very small, Sir, but it does at least give me the opportunity of inviting other Government departments and other Ministers to install information processing facilities in their own offices. They would be surprised to see the output of their personal offices if such a step was taken.

For some time there has been a vote for the purchase of a word processor for the Attorney General's Office to assist his drafting staff. They would be able to store the legislation as it is being drafted. It would be there for ever, and amendments would be easy to make and print out. I do not believe that that word processor has ever been purchased.

Aside.

Rt. Hon. J. M. G. M. ADAMS: The Attorney General murmurs from his seat that it has been. I am glad. He, too, will find that he will need a superior printer than the one supplied with the basic process.

I could sit down at this point, Sir, but perhaps I will also say that these pilot schemes in using computerisation, word processing and information processing, are very important for future developments in Barbados.
3.30 p.m.

I would just like to say, before I sit down, a word or two about them. It is a matter of the highest possible importance that Barbados is beginning to attract to the island international companies who use our facilities for the processing of information.

The fact that American Airlines is placing an Information Processing Centre in Barbados is now sufficiently well-known for it to have become the subject of adverse comment in the *Wall Street Journal,* which thinks that American firms should stay at home rather than carry this sort of activity overseas. All that I can say is that we in Barbados welcome it.

I was particularly heartened two years ago when I was on an economic promotion tour promoting our offshore business facilities, to hear an important industrialist, who was at that time indirectly the owner of one of our utilities, recommend Barbados to his fellow industrialists as an information and data processing centre. He pointed out that on a Monday morning he could collect the raw material, despatch it to Barbados and have it processed by the Thursday of that week and back in New York.

I think that the problem of the unemployed boys and girls who leave school with one, two, or three certificates, who are inadequately qualified for white-collar jobs, as they are understood today, could be solved by an expansion of the information processing industry.

Very few of us know a great deal about it, Sir. In this House probably only Mr. Deputy Speaker has any kind of grasp or knowledge of the computer process and the computer world. I myself, somewhat shamefacedly, confess to the fact that I cannot understand the word processor in my office. Very soon I am going to take a day or two off and ask my secretaries to teach me.

I would like to go further. I would like to know that the opportunity for men my age and older existed in Barbados to give us a grasp of the electronic wonders of the age. Those of us who perhaps know what a typewriter keyboard looks like have no idea of how to ask a computer a question or tell a computer what to do.

I have a small Radio Shack computer in my study at home, Sir, and were it not that Mr. Deputy Speaker kindly lent me manuals, which are the same as two and two plus four in the computer world, I would know nothing whatsoever about it. And I believe that if we want to keep ourselves up-to-date in a modern world, we should all be trying to understand the electronics revolution and trying to master the new tools put at the disposal of mankind by the development of the microchip and other electronic marvels that now balance knowledge on the head of a pin like so many medieval angels.

The new theologians, Sir, would not be those that count the number of angels that can dance on the head of a pin, but would be the economic theologians counting the number of circuits that can be fitted into a microchip. We have the means here in Barbados because we have the basic industry. We have the demand for computer technicians. We are sufficiently affluent, and at the business level certainly so, to purchase the hardware. All it needs is for Barbadians to turn themselves to the task.

I have asked the Ministry of Education to introduce instruction in computer techniques in every secondary school in Barbados, to prepare the bill for buying a sufficiently number of computers, even if it is 30 or 40 per school, and for training a sufficient number of teachers to ensure that when boys and girls come out of our secondary schools they have had two years of basic instruction in computer technology, what computers are about, basic programmes and basic use of word processing material, and I would want to see all business schools in Barbados beginning to teach this now as a matter of priority.

It is in our human resources, the skill of our people, the belief in education, that has always motivated us that our future lies. We may become a major oil producer, we may become a tourism centre with two million visitors like the Bahamas, but unless the people of our country are continually educated and trained in the most modern techniques available to people anywhere, we still will not progress as we would want.

This Resolution, Sir, reflects the fact that in one small area, the Prime Minister's office, his secretaries and other associated staff, it is intended that the computer revolution find an early place in this particular Barbadian institution.

I beg to move that Head 16 stand part.

Hon. L. S. CRAIG: I beg to second that.

HEAD 17 – DEFENCE AND SECURITY

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): The Resolution, Sir, speaks for itself.

The Immigration Department has its files on the floor, and for all kinds of reasons this is a bad situation. The security of the files is compromised. When files are "lost", no adequate explanation can be demanded if they had been kept in inadequate circumstances, and the Resolution is to purchase a number of filing cabinets.

I beg to move that Head 17 stand part.

Hon. L. S. CRAIG: I beg to second that.

On the motion of Rt. Hon. J. M. G. M. ADAMS seconded by Hon. L. S. CRAIG, Mr. Chairman reported the passing of one Money Resolution in Committee, and Mr. Deputy Speaker resumed the Chair and reported accordingly.

On separate motions of Rt. Hon. J. M. G. M. ADAMS seconded by Mr. R. E. BRATHWAITE the Resolution was read a first and second time and agreed to.

RATES OF SALARY AND ALLOWANCES APPLICABLE TO THE POSTS ON THE PRIME MINISTER'S PERSONAL STAFF

Order No. 8 was called – To move the passing of the Resolution to adjust the rates of salary and allowances and the terms and conditions applicable to certain posts on the Prime Minister's Personal Staff.

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): Again, Sir, the Resolution speaks for itself. The Addendum is very full. It indicates that the post of Press Secretary should be bracketed with Press Officer so as to allow a wider range of qualification in selecting an officer for these posts. The Press Secretary is equated in salary to the Senior Information Officer, and the new post of Press Officer, which I am asking for, will be equated to that of Information Officer. I would point out that it is only intended that there be one employee. It is just a bracketed post so as to extend the range of qualification.

3.40 p.m.

The post of Executive Personal Secretary – it does seem that this post was left behind. In the Parliament of 1971–76, a Resolution was brought to upgrade that post

to the level of Private Secretary to the Prime Minister. That Resolution was lost when the House was dissolved and the upgrading never kept pace with the post of Private Secretary, and this is now sought.

It has been pointed out that although these officers are contract officers, they do not enjoy, and have in the past enjoyed, the ordinary privilege of contract officers, which is gratuity in lieu of pension, and this anomaly is now also sought to be completed. The period is fixed as three years. With ordinary contract officers I believe it is two, but it is fixed three years in this case. I suppose it could be fixed as five, but there is only, so to speak, a lower limit, not an upper limit, and as long as the people are reappointed, they would re-qualify.

I beg to move that this Resolution do now pass.

Hon. L. S. CRAIG: I beg to second that.

Mr. W. O. FRANKLIN (St. Philip North): Mr. Deputy Speaker, just to enquire of the honourable Prime Minister whether or not the post of Secretary to the Leader of the Opposition should not so come under the Second Schedule where it would allow a gratuity to be attached to the post as well. I would like to invite the honourable Prime Minister, if his Ministry is not the appropriate authority, to invite the appropriate authority to so see the Secretary to the Leader of the Opposition in such a light.

Rt. Hon. J. M. G. M. ADAMS: I would like to see it, Sir. Politicians sell themselves too short. Perhaps even persons who are the secretaries to the M.Ps could be put on the same basis. All other employees in the Government Service, whose services are not indefinite, are entitled to gratuities once they are the substantive holders of posts. If there is a termination date to a post one way or another, once the post is not pensionable, persons are given a gratuity in lieu of pension.

In the case of the Secretary to the Leader of the Opposition, who has been disadvantaged since 1971, I really think that the disadvantages should now be ended and the wise suggestion of the honourable Member accepted, and I commend it to the Debates Committee, which I believe are technically the employers of the personal staff of the Leader of the Opposition and of Members of Parliament for an early recommendation.

I will raise it with the Cabinet Secretary and indicate to him that he should prod the Deputy Speaker, the Leader of the House and the Debates Committee to have the recommendations brought down as soon as possible. The honourable Member is absolutely right. It is the only equitable thing to do, and I am obliged to him for raising it at this time.

The question that the Resolution do now pass was put and resolved in the affirmative without division.

THE ADJOURNMENT

Hon. L. S. CRAIG: Mr. Deputy Speaker, that brings us to the end of Government Business, and I beg to move that this House do now adjourn until Tuesday, July 26, 1983, at 12 o'clock noon.

Hon. L. B. BRATHWAITE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. DEPUTY SPEAKER adjourned the House accordingly.

3.45 p.m.

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